

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

JESSICA JONES, et al.,

Plaintiffs,

v.

VARSITY BRANDS, LLC, et al.

Defendants.

Case No. 2:20-cv-02892-SHL-tmp

JURY DEMAND

**INDIRECT PURCHASER PLAINTIFFS' NOTICE OF SUPPLEMENTAL
AUTHORITY**

Plaintiffs respectfully submit the attached supplemental authority in support of their Motion for Class Certification (ECF No. 389) and Reply in Support of Class Certification (ECF No. 454).

In *Le et al. v. Zuffa, LLC*, No. 215CV01045RFBBNW, 2023 WL 5085064 (D. Nev. Aug. 9, 2023), attached hereto as Exhibit A, the court held that plaintiffs, a class of mixed martial arts fighters alleging claims under Section 2 of the Sherman Act, 15 U.S.C. § 2, satisfied each element of Rule 23(a) and had shown that common questions predominate as to liability, impact and damages under Rule 23(b)(3). The anticompetitive conduct alleged included several types of exclusionary conduct to foreclose rivals and exclude competition. The Court followed the Ninth Circuit's recent decision in *Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC*, 31 F.4th 651 (9th Cir.) (en banc), cert. denied sub nom. *StarKist Co. v. Olean Wholesale Grocery Coop., Inc.*, 143 S. Ct. 424 (2022) (certification of a class of indirect purchasers).

In *In re Broiler Chicken Antitrust Litig.*, No. 16 C 8637, 2023 WL 5227130, at *1-*3, (N.D. Ill. Aug. 15, 2023), attached hereto as Exhibit B, the court held that consumer protection

laws in Michigan, North Dakota, the District of Columbia, Illinois, Nevada, New Mexico, Rhode Island, South Dakota, and Utah provided relief for price-fixing claims, rejecting the Defendants' summary judgment motion seeking to dismiss indirect purchaser claims under those states' consumer protection laws. The court also confirmed that consumer protection laws in Minnesota, Oregon, South Carolina, and Vermont applied to "consumer" purchases, such as those made by Plaintiffs and the Classes here, as opposed to purchases for "business purposes." *Id.* at *3. The court also rejected the defendants' argument that plaintiffs' claims did not satisfy the intrastate commerce requirements of Mississippi, New Hampshire and Utah consumer protection laws. *Id.* at *4.

In *In Re Pork Antitrust Litigation*, No. CV 18-1776 (JRT/JFD), 2023 WL 2696497 (D. Minn. Mar. 29, 2023), attached hereto as Exhibit C, the court certified a class of direct purchasers and two classes of indirect purchasers. The Court found that experts for all three classes employed "widely-accepted" regression analyses and reliably applied them to the facts to show through common evidence that Defendants raised prices above competitive levels. *Id.* at *11.

Dated: September 19, 2023

Respectfully submitted,

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